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OFFICE OF PETITIONS

In re Application of
Giddings, et al.
Application No. 10/762,325
Filed: January 23, 2004
Attorney Docket No. RD-27,791-3

DECISION ON PETITION

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM AND PETITION TO REFUND THE 37 CFR § 1.17(H) FEE", filed August 24, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of January 23, 2004, with Figures 2 and 3 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on January 23, 2004. However, on August 4, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a NonProvisional Application." Applicants were notified that the application papers had been accorded a filing date of January 23, 2004; however, Figures 2 and 3 of the drawings appeared to have been omitted.

In response, applicants filed the instant petition. Accompanying the petition was a copy of Figures 2 and 3 of the drawings. Applicants maintain that the application as originally filed included Figures 2 and 3. In support thereof, applicants submitted a filing receipt identifying this application, itemizing "Drawings (two sheets)" as enclosed, bearing a United

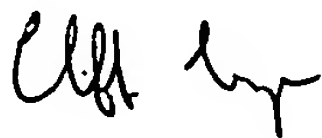
States Patent and Trademark Office date-stamp of January 23, 2004, and lacking any notation of non- receipt of any item listed.

A receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the \$130 petition fee will be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 23, 2004, using the application papers received in the Office on that date and Figures 2 and 3 of the drawings as resupplied on petition filed August 24, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions